

August 10, 2005  
**Submitted Electronically via ECFS**

Elana Shapochnikov  
Associate General Counsel  
Net2Phone, Inc.  
520 Broad Street  
Newark, NJ 07102  
Tel: (973) 438-3686  
Fax: (973) 438-3100  
eshapo@net2phone.com

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
9300 East Hampton Drive  
Capitol Heights, MD 20743  
Attention: Office of the Secretary

**Re: RE: WC Dockets 04-36 and 05-196  
Subscriber Notification and Acknowledgement Status and Compliance  
Report**

Dear Ms. Dortch:

Net2Phone, Inc., and its subsidiaries, (collectively “Net2Phone”) respectfully submit this Report in response to the Enforcement Bureau’s Public Notice issued July 26, 2005 regarding the Federal Communications Commission’s (“FCC” or “Commission”) rules governing enhanced 911 (“VoIP E911 Order”).<sup>1</sup> Net2Phone’s direct to consumer broadband voice service consists of devices that function with any high-speed broadband connection to enable customers to make and receive calls from telephone numbers assigned to the devices.<sup>2</sup>

1. **A detailed description of all actions the provider has taken to specifically advise every subscriber, prominently and in plain language, of the circumstances under which E911 service may not be available through the interconnected VoIP service and/or may be in some way limited by comparison to traditional E911 service.**
- As of October 21, 2004 Net2Phone implemented an online click-through acknowledgment process notifying customers of the limitations and conditions of

---

<sup>1</sup> *In the Matter of IP-Enabled Services and E911 Requirements for IP-Enabled Providers*, First Report and Order and Notice of Proposed Rulemaking, 2005 WL 1323217, FCC (rel. June 3, 2005) (“*VoIP E911 Order*”).

<sup>2</sup> Although the VoIP E911 Order does not apply to WiFi services, Net2Phone has included WiFi customers in its subscriber notification and acknowledgment processes.

their emergency service.<sup>3</sup> When a new customer enters Net2Phone's website, they are taken through the sign-up process described in Exhibit A. After customers enter their information, including service address (corresponding to the physical address where they intend to use their device), they are given the option to port their existing number (where porting is available) or choose a new number from a list. Customers purchasing services prior to July 13, 2005, had the option to choose a number with 911-type services or without emergency services. The words (No 911) were displayed next to all numbers that did not contain emergency services. If a customer chose a number without emergency services, they were warned that the number they are choosing will not have access to emergency services. As of July 13, 2005, Net2Phone no longer offers numbers without emergency services.

- Where a customer receives Net2Phone's 911-type service, in order to complete their order, they must click on two checkboxes adjacent to disclaimer text and links to the broader disclaimer language contained in a pop-up window. The checkboxes appear under the heading "Acknowledgments". One checkbox asks the customer to agree and acknowledge Net2Phone's general Terms of Service that contain a link to Net2Phone's "Conditions and Limitations of Emergency (911) Service." The second checkbox asks the customer to click a link to open, read, and agree to the separate Conditions and Limitations of Emergency (911) Service terms. The Conditions and Limitations of Emergency (911) Service terms contain a detailed and clear explanation of the limitations of their 911-type service. Additionally, the text immediately following the second checkbox summarizes the limitations on the customer's 911-type service, including, power failure, movement of the device outside of the customer's service address, and broadband connection failure. Customers cannot complete their order or receive services unless and until they acknowledge both checkboxes.
- Customers who purchased services prior to July 13, 2005 without access to emergency services, were automatically taken to a different set of disclaimer checkboxes. Throughout the sign-up process, the customer was reminded that their number will not have any type of 911 access as described in Exhibit B. Once the customer chose a "No 911" number, the customer went through the same process as above except that the text of the second checkbox required customers to acknowledge that: 911 is unavailable, customers must inform anyone who may use their service of the unavailability of 911, and that customers must maintain alternate means of contacting emergency personnel. As stated above, as of July 13, 2005, Net2Phone does not offer "No 911" numbers to customers with U.S. service addresses.

Acknowledgment process prior to October 21, 2004:

---

<sup>3</sup> In addition to the notification and acknowledgments described herein, Net2Phone's website contains several explanations of the conditions and limitations of emergency services. See, [http://web.net2phone.com/consumer/voiceline/phone\\_numbers\\_911.asp](http://web.net2phone.com/consumer/voiceline/phone_numbers_911.asp); <http://web.net2phone.com/site/vlterms.asp>; [http://web.net2phone.com/consumer/voiceline/support\\_faq.asp](http://web.net2phone.com/consumer/voiceline/support_faq.asp). Net2Phone also provides warnings on 911 in the customer User Guide and User Manuals included with the customer's devices.

- Customers who purchased services prior to October 21, 2004, did not receive emergency services. These customers were initially notified in their Terms of Use, via warning sticker on their device (for devices purchase after November 18, 2004) and in the User Manual accompanying the device.
- On July 14, 2005, Customers who purchased services prior to October 21, 2004 were notified via e-mail and asked to acknowledge the limitations on 911 via e-mail reply by typing in their name and the words "I ACCEPT THESE TERMS. Signed: (customer name)."
- On July 18, 2005 Net2Phone called those customers with an invalid e-mail address to update their e-mail addresses.
- On July 20, 2005, customers that did not respond to the initial notice were sent a second e-mail notice explaining, again, that their services do not contain access to emergency services and requesting a reply acknowledgment as described above.
- On July 25, 2005, the remaining customers that did not reply were sent a third e-mail notice. From July 27, 2005 through August 4, 2005, customers that did not reply to any of the prior notices were left a voicemail. Customers that updated their e-mail addresses were sent follow-up e-mail notifications and requests for acknowledgments.
- Net2Phone plans to send follow-up e-mails on August 10, 2005 and will continue with its calling campaign for those customers that do not respond.
- Net2Phone also provides wholesale services to other VoIP service providers who then market and resell the services to their own customers. Net2Phone does not have a relationship with the resellers' customers. Although Net2Phone's U.S. resellers are themselves required to comply with the VoIP E911 Order, Net2Phone has notified its resellers of their responsibility to comply with the FCC's requirements.

**2. Quantification of how many of the provider's subscribers, on a percentage basis, have submitted an affirmative acknowledgement, as of the date of the report, and an estimation of the percentage of subscribers from whom they do not expect to receive an acknowledgment, as of the date of the report, and an estimation of the percentage of subscribers from whom they do not expect to receive an acknowledgment by August 29, 2005.**

- As of August 9, 2005 ninety eight percent (98%) of all of Net2Phone's direct to consumer customers have submitted an affirmative acknowledgment in compliance with the FCC's VoIP E911 Order. Net2Phone will continue its notification efforts to the remaining two percent (2%) of customers who have not acknowledged as of the date of this Report.

**3. A detailed description of whether and how the provider has distributed to all subscribers warning stickers or other appropriate labels warning subscribers if E911 service may be limited or not available and instructing the subscriber to place them on and/or near the customer premises equipment used in connection with the interconnected VoIP service.**

- On November 18, 2004, all Net2Phone direct to consumer broadband voice devices (except for WiFi phones) contained warning stickers on emergency services.
- Although the VoIP E911 Order does not extend the subscriber notification and acknowledgment requirements to WiFi services, starting July 18, 2005, Net2Phone includes warning stickers and affixation instructions in the WiFi device package mailed to customers.
- On July 22 and 25, 2005, customers that did not receive devices (including WiFi phones) with warning stickers were mailed a letter via first class mail containing warning stickers and instructions on how to affix the stickers on or near their device.

**4. A quantification of how many subscribers, on a percentage basis, to whom the provider did not send the advisory described in the first bullet above and/or to whom the provider did not send warning stickers or other appropriate label as identified in the bullet immediately above.**

- To the best of Net2Phone's knowledge, as of August 9, 2005, Net2Phone has sent warning stickers to all of its direct to consumer customers.

**5. A detailed description of any and all actions the provider plans on taking towards any of its subscribers that do not affirmatively acknowledge having received and understood the advisory, including, but not limited to, disconnecting the subscriber's VoIP service the Company no later than August 30, 2005.**

- Net2Phone is still evaluating its course of action in the event it does not receive acknowledgments from all of its customers. Net2Phone will continue to contact any remaining non-responsive customers via the means described in this Report.

**6. A detailed description of how the provider is currently maintaining any acknowledgments received from its subscribers.**

- For customers using the e-mail notification and acknowledgment process described in Question 1 above, Net2Phone stores all such e-mail responses in a centralized electronic file dedicated to compliance with the FCC's VoIP E911 Order.
- For customers utilizing the online acknowledgment process an electronic record is created automatically upon submission of a customer order. The record contains the customer's information and is date and time stamped. On at least a monthly basis,

and whenever there is a change to the general Net2Phone Terms of Service or Conditions and Limitations of Emergency (911) Services, a Net2Phone employee gathers all of the customer records from Net2Phone's centralized database, and signs a certification attesting that the customers on the records went through the notification and acknowledgment process as described in Question 1. The customer records and template snapshots of the website acknowledgment checkboxes are printed and attached to the general Terms of Service Conditions and Limitations of Emergency (911) Services that customers on the certification acknowledged. The certification and exhibits are then stored in Net2Phone's database in a centralized file dedicated to compliance with the FCC's VoIP E911 Order.

**7. The name, title, address, phone number, and e-mail address of the person(s) responsible for the Company's compliance efforts with the *VoIP E911 Order*.**

- There are several individuals and departments at Net2Phone that are charged with compliance with the VoIP E911 Order. All communications regarding Net2Phone's compliance with the Order should be addressed to:

Net2Phone, Inc.  
Attn: Elana Shapochnikov  
Associate General Counsel  
520 Broad Street  
Newark, NJ 07102  
Tel: (973) 438-3686  
Fax: (973) 438-3100  
eshapo@net2phone.com

Respectfully submitted,

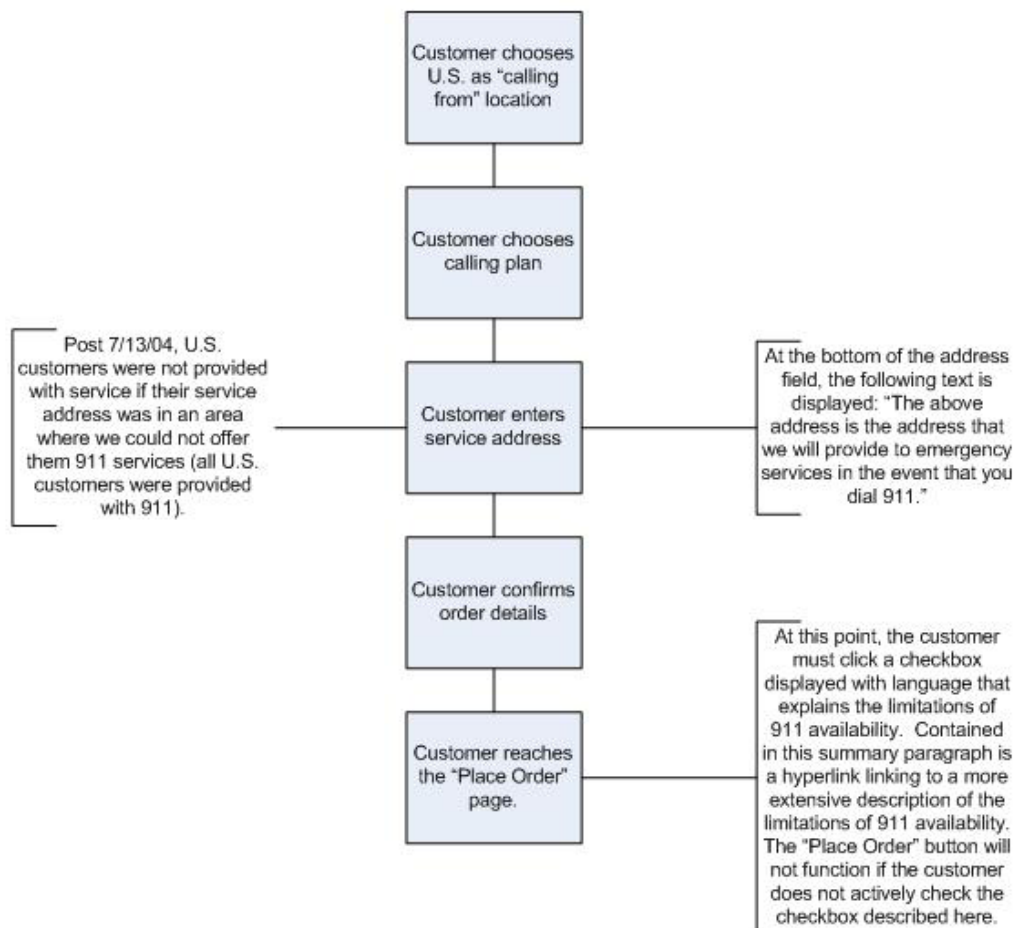
[electronically filed]  
Elana Shapochnikov

cc via e-mail:

Byron McCoy, [byron.mccoy@fcc.gov](mailto:byron.mccoy@fcc.gov);  
Kathy Berthot, [kathy.berthot@fcc.gov](mailto:kathy.berthot@fcc.gov);  
Janice Myles, [janice.myles@fcc.gov](mailto:janice.myles@fcc.gov); and  
Best Copy and Printing, Inc. (BCPI), [fcc@bcpiweb.com](mailto:fcc@bcpiweb.com).

## EXHIBIT A

### Net2Phone Online Sign-Up Process For U.S. Customers Receiving 911-Type Services



## EXHIBIT B

As of July 14, 2005, this process has been replaced with the process described in Exhibit A.

### Net2Phone Online Sign-Up Process For U.S. Customers Receiving No Form of Emergency Services

